IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ROBERT JACKSON, JOSEPH McGRATH, and DERRELL SMITH,	)	
Plaintiffs,	)	
-vs-	)	No. 06 CV 493
	)	*(Judge Coar)*
SHERIFF OF COOK COUNTY, COOK COUNTY, ILLINOIS, AND DIRECTOR, CERMAK HEALTH SERVICES,	)	
Defendants.	)	

PLAINTIFFS' MOTION FOR GUIDANCE IN RESPONDING TO LATE CLAIMS

The plaintiff class, by counsel, respectfully requests that the Court provide guidance to assist class counsel in responding to late filed claims.

Grounds for this request are as follows:

1. On October 31, 2007, the Court extended to and including November 22, 2007 the time for class members to file claims. Because November 22, 2007 was the Thanksgiving holiday, the deadline was the next day, or November 23, 2007.

2. Class counsel have to date received after November 23, 2007 about 50 claim forms or inquiries about claim forms. These late claims fall into the following groups:

   i. Claims from class members who are incarcerated, either in a state or a federal penitentiary or at the Cook County Jail;

ii. Claims from class members who moved from the address to which notice had been mailed;

iii. Claims from class members who were recently released from the penitentiary and learned about this case upon returning home;

iv. Claims which are late without any apparent explanation.

3. As of the November 23rd cutoff date, about 11,500 claims have been made. This will result in a payout of $2,300,000 to class members; the surplus (or $900,000) will be retained by defendant Cook County.

4. Class counsel may have a duty to the "late" class members who can make a showing of "excusable neglect" within the meaning of Rule 6(b) of the Federal Rules of Civil Procedure to prepare and file individual applications for leave to file a late claim.

5. An alternative to the filing of individual applications for leave to file a late claim would be for the Court to grant an across the board extension of the claim deadline. The Court could limit this extension to class members who do not presently reside at the address to which class notice had been mailed or who are otherwise unable to make a showing of good cause.

6. Another possibility would be for the Court to limit the extension to the filing of 500 additional claims, which would allow defendant Cook County to retain $800,000 of the funds available for distribution to the class.

It is therefore respectfully requested that the Court provide guidance to assist class counsel in responding to late filed claims.

Respectfully submitted,

/s/ Kenneth N. Flaxman

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CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of December, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Francis J. Catania, Ass't State's Atty, 50 W Washington St, Room 500, Chicago, IL 60602, and Daniel F. Gallagher, Esq., Query & Harrow, Ltd., 175 W Jackson Blvd, Ste 1600, Chicago, IL 60604-2827, and I hereby certify that I have mailed by United States Postal Service the document to the following non CM/ECF participants: NONE.

/s/ Kenneth N. Flaxman
____

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